

National Freedom of Information Officer  
U.S. EPA, Records, FOIA and Privacy Branch  
1200 Pennsylvania Avenue, NW (2822T)  
Washington, DC 20460

July 3, 2015

**RE: FOIA REQUEST**

**VIA EMAIL & FIRST CLASS MAIL**

Dear FOIA Officer:

The U.S. Environmental Protection Agency (EPA) provides links to files with air pollution data from its National Emissions Inventory (NEI) at <http://www.epa.gov/ttn/chief/trends/index.html>.

One of these links is for a March 2015 file entitled “1970 - 2014 Average annual emissions, all criteria pollutants in MS Excel”:

[http://www.epa.gov/ttn/chief/trends/trends06/national\\_tier1\\_caps.xlsx](http://www.epa.gov/ttn/chief/trends/trends06/national_tier1_caps.xlsx)

This file contains tables with annual emission estimates for various air pollutants broken down by twelve specific sources (such as transportation or stationary sources) and a thirteenth category labelled “miscellaneous” whose source(s) are not identified or referenced.

Elsewhere on the EPA website at [www.epa.gov/air/emissions/multi.htm](http://www.epa.gov/air/emissions/multi.htm) , EPA gives a multi-pollutant comparison of these same pollutants broken down by the percentage of each in 2011 that EPA attributed to seven specific sources and an eighth category labelled “miscellaneous.” But neither this figure nor its supporting data, which EPA provides a link to at

[http://www.epa.gov/cgi-bin/broker?\\_service=data&\\_program=dataprog.dw\\_multi\\_nat\\_table.sas&query=htm&debug=0](http://www.epa.gov/cgi-bin/broker?_service=data&_program=dataprog.dw_multi_nat_table.sas&query=htm&debug=0)

give any reference or further breakdown for the miscellaneous subtotal.

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER) requests the data sets and variable names that were used to compile the “miscellaneous” subtotals given for each of the pollutants in these multi-year tables posted at.

[http://www.epa.gov/ttn/chief/trends/trends06/national\\_tier1\\_caps.xlsx](http://www.epa.gov/ttn/chief/trends/trends06/national_tier1_caps.xlsx)

Specifically, we request the following:

- The data sets and variable names used to estimate the “miscellaneous” category subtotals in the NEI for CO, NO<sub>x</sub>, SO<sub>2</sub>, PM<sub>10</sub>, PM<sub>2.5</sub>, VOCs, and ammonia for each year from 1990 to 2014;
- The data sets and variable names used to estimate the “miscellaneous” category subtotals in the NEI for CO, NO<sub>x</sub>, SO<sub>2</sub>, PM<sub>10</sub>, and VOCs for the years 1970, 1975, 1980 and 1985; and
- The data sets and variable names used to estimate the “miscellaneous” category for ammonia, CO, lead, NO<sub>x</sub>, SO<sub>2</sub>, VOCs and the unnamed pollutant in the first row of the table. with 2011 data posted at [http://www.epa.gov/cgi-bin/broker?\\_service=data&\\_program=dataprog.dw\\_multi\\_nat\\_table.sas&query=html&\\_debug=0](http://www.epa.gov/cgi-bin/broker?_service=data&_program=dataprog.dw_multi_nat_table.sas&query=html&_debug=0)

To the extent that any of the requested data sets are no longer available from EPA, PEER would request records which identify which data sets were used by EPA to estimate these annual subtotals.

In a January 21, 2009 memo, President Barack Obama declared the following policy for the Executive Branch:

“The Freedom of Information Act should be administered with a clear presumption: In the face of doubt, openness prevails. The Government should not keep information confidential merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears... All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA, and to usher in a new era of open Government. The presumption of disclosure should be applied to all decisions involving FOIA.”

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

To the extent that EPA needs to perform a detailed review, PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)):

*1. The subject matter of the requested records must specifically concern identifiable operations or activities of the government.*

The FOIA request is, by its terms, limited to identifiable activities of EPA.

*2. For the disclosure to be “likely to contribute” to the understanding of specific government operations or activities, the releasable material must be meaningfully informative in relation to the subject matter of the request.*

The requested material consists of the bases for key components of NEI emissions data. This material would allow the public to understand how EPA calculated totals for a key component of these emissions data. To the extent that EPA is unable to provide or even identify the requested data it would enable the public to grasp the lack of rigor and/or reliability of these annual totals.

The requested material is the definitive data needed to clearly establish the basis for the miscellaneous totals for these pollutants.

*3. The disclosure must contribute to the understanding of the public at large, as opposed to the understanding of the requestor or a narrow segment of interested persons.*

The requested information concerns the reliability of NEI emissions data displayed on the EPA website. In its web-preamble to these data display EPA declares that:

“Emissions Inventories are the basis for numerous efforts including trends analysis, regional, and local scale air quality modeling, regulatory impact assessments, and human exposure modeling.”

Thus, we believe that the above statement indicates EPA acknowledges that the reliability of this inventory data is of interest to the public at large.

The public at large also has an acute interest in information indicating how well EPA has implemented the requirements of the Clean Air Act with respect to these criteria pollutants.

PEER intends to provide the requested information to the general public through —

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

As the Agency well knows from past direct experience, PEER has a long track record of attracting media and public attention to the internal records of federal agencies, including EPA.

*4. The disclosure must contribute “significantly” to public understanding of government operations or activities.*

Section II of EPA's Scientific Integrity Policy declares:

"Science is the backbone of the EPA's decision-making [citation omitted] The Agency's ability to pursue its mission to protect human health and the environment depends upon the integrity of the science on which it relies. The environmental policies, decisions, guidance, and regulations that impact the lives of all Americans every day must be grounded, at a most fundamental level, in sound, high quality science."

This request concerns the integrity of key data upon which EPA relies. The integrity (or lack thereof) of these data allows the public to understand whether they are being appropriately used as the basis for EPA regulations, policies, assessments and modeling.

In particular, these data are needed to understand why all miscellaneous sources combined consistently make up less than 5% of all estimated NOx and SO2 emissions in the NEI, but over 95% of PM10 and ammonia emissions. They also are needed to understand why the percentage of emissions attributed to miscellaneous sources in EPA's Multipollutant Comparison for 2011 do not match those calculated for 2011 from the NEI data file.

5. *The extent to which disclosure will serve the requestor's commercial interest; and*
6. *The extent to which the identified public interest in the disclosure outweighs the requestor's commercial interest.*

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Jeff Ruch  
Executive Director